IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 14763 of 2004

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Between:

M/s. Deccan Foam Plastics Pvt Ltd., Narasapur (V)m,

Medak Dist, Regd. Off. 50,1st Floor, SBI Colony, New

Bakaram, Hyderabad-80 rep. by its Managing Director,
Sri B.V.R.K. Reddy.

..... PETITIONER

AND

-

1 Regional Provident Fund Commissioner Employees,

Provident Gund Organization, Barkatpur, Hyderabad.
2 Assistant Provident Fund Commissiner, (Recovery),

Sub-Accounts Office, Patancheru, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings AP/21765/SAO/PTC/ENF/(Recy)/RC NO. 19/03/2004/778, Dt.23.7.2004 is illegal, arbitrary and unjust and consequently set aside the proceedings AP/21765/SAO/PTC/ENF(Recy)/ RCNo.19/03/2004/778, Dt. 23.7.2004 issued by the 2nd respondent.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for Respondent s: MR.R.N.REDDY

The Court Made the Following ORDER:

It is not in dispute that the movable and immovable properties of the petitioner-company were attached and the same was informed to the petitioner-company through letters dated 13-11-2003 and 30-4-2004 stating that steps will be taken to auction the said property for due recovery of P.F. Contribution, penal damages and interest on such amounts due. But the only grievance of the petitioner is that by impugned order dated 23-7-2004 the petitioner was informed that it is proposed to execute the certificate by arrest and imprisonment of the Managing Director of the petitioner-company.

While considering similar issue, this court in W.A.NO.177 of 2002 held that arrest of the employer and his detention in prison cannot at all be made in view of the proviso to Section 8B(1) of the Act and the department is at liberty to proceed with the sale of the property attached and if the sale proceeds are not sufficient to discharge the amount mentioned in the certificate, the department is at liberty to initiate proceedings against the property of the employer for recovery of the whole or any part of such arrears. In view of the same unless such remedies are exhausted the respondents are directed not to arrest the petitioner.

With the above direction, the Writ Petition is disposed of. No costs.

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A. Gopal Reddy, J.

19th August, 2004.

Js.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 Regional Provident Fund Commissioner Employees,

Provident Gund Organization, Barkatpur, Hyderabad.
2 Assistant Provident Fund Commissiner, (Recovery),

Sub-Accounts Office, Patancheru, Medak District.

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